

Message Text

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ACTION EB-08

INFO OCT-01 ARA-10 ISO-00 SSO-00 NSCE-00 ICAE-00
CAB-02 CIAE-00 COME-00 DODE-00 DOTE-00 INR-10
NSAE-00 FAA-00 L-03 SS-15 INRE-00 PA-01 /050 W
-----017741 042147Z /62
O 041559Z JUL 78
FM AMEMBASSY LIMA
TO SECSTATE WASHDC IMMEDIATE 778

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E.O. 11652: N/A
TAGE: EAIR, PE
SUBJECT: CIVAIR - US-GOP TALKS - REPORT 2

1. ON JULY 3, PERU DEL RESPONDED TO US-PROPOSED DOCUMENT BY
TABLING A COUNTERPROPOSAL DESCRIBED BY PERUVIANS AS A COMPROMISE.
ITS MAIN FEATURES WERE:

A. ON SCHEDULED OPERATIONS, PERUVIAN SUGGESTED AMENDING PARA-
GRAPH 1 OF 1966 AMENDMENTS (CONCERNING FILING OF SCHEDULES) BY
ADDING THE FOLLOWING BETWEEN THE TWO EXISTING SENTENCES: "THE
GOVERNMENTS SHALL GRANT WITHIN THE SHORTEST POSSIBLE TERM AND
PURSUANT TO THE MOST SIMPLE FORMALITIES THE RESPECTIVE OPERATING
PERMITS FOR THE PERIODS AND ON THE TERMS MOST FAVORABLE TO THE
AIRLINES, CONSONANT WITH PRINCIPLES OF THE ANNEX TO THE AGREEMENT."
PERU DEL CONFIRMED THAT INTENT OF THIS LANGUAGE WAS TO ASSURE
PERUVIAN GOVERNMENT THE RIGHT, ON UNILATERAL BASIS, TO DETERMINE
WHETHER PROPOSED OPERATIONS WERE CONSONANT WITH ANNEX CAPACITY
PRINCIPLES.

B. ON FARES, PERUVIANS ACCEPTED COUNTRY-OF-ORIGIN PROCEDURES.
HOWEVER, INSTEAD OF LOW-FARES HORTATORY LANGUAGE, PERUVIANS
PROPOSED RETENTION OF SUBSTANTIVE STANDARD OF PARAGRAPH F OF THE
ANNEX.

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C. PERUVIAN COUNTERPROPOSAL ON WET LEASES WOULD OBLIGE US TO
APPROVE WET-LEASE ARRANGEMENTS WITH THIRD-COUNTRY AIRLINES PRO-
VIDED ONLY THAT AIRCRAFT CONTAIN EXTERIOR MARKINGS OF BOTH
PERUVIAN AIRLINE AND FOREIGN LESSOR AIRLINE.

D. WITH RESPECT TO ROUTES, GOP PROPOSED THAT THE DESIGNATED AIR-

LINES OF PERU BE GRANTED THE RIGHT TO SERVE MIA, WAS, NYC, LAX AND SFO OVER THREE SEPARATE ROUTES WITH UNLIMITED INTERMEDIATE RIGHTS. GOP ALSO PROPOSED THAT THE USG RANT PERUVIAN DESIGNATED AIRLINES BEYOND RIGHTS TO POINTS IN CANADA FROM MIA, WAS AND NYC; TO POINTS IN EUROPE FROM MIA, AND TO POINTS IN ASIA FROM LAX AND SFO. GOP PROPOSAL SILENT ON ROUTE RIGHTS FOR BRANIFF, ALTHOUGH PERU DEL SUBSEQUENTLY REITERATED ITS VIEW THAT US BEYOND RIGHTS DID NOT INCLUDE BRAZIL, ARGENTINA, ETC.

E. ON CHARTERS, GOP PROPOSAL TRACKS LANGUAGE AND CONTENT OF US PROPOSAL WITH SOME CHANGES. IT ACCEPTS COUNTRY-OF-ORIGIN CONTROL OF CHARTERWORTHINESS AND PRICE. IT ALSO ACCEPTS PALCING CHARTER PROVISIONS IN 1946 AGREEMENT. CHANGES ARE, FIRST, DELETING "REGULARITY OF SERVICE" FROM US LANGUAGE AUTHORIZING CHARTER FLIGHTS "WITHOUT CONDITIONS ON VOLUME, FREQUENCY, OR REGULARITY OF SERVICE". SECOND, PERUVIAN PROPOSAL RETAINS PRIOR APPROVAL OF CHARTER FLIGHTS AS FOLLOWS: "THE REQUIREMENT FOR ADVANCE APPROVAL FOR INDIVIDUAL FLIGHTS OR SERIES OF FLIGHTS SHALL BE FACILITATED WITH MAXIMUM PROMPTNESS AND THE MINIMUM OF NECESSARY CONDITIONS". FIRST CHANGE WAS EXPLAINED AS NON-SUBSTANTIVE BUT NECESSITATED BY FACT THAT SPANISH TRANSLATION OF "REGULARITY" WOULD CHARACTERIZE CHARTER FLIGHTS AS SCHEDULED; COMMITMENT NOT TO LIMIT VOLUME AND FREQUENCY WOULD BAR REJECTION OF FREQUENT AND REGULAR CHARTER PROGRAMS. SECOND CHANGE WAS SAID TO BE DESIGNED SOLELY TO ASSURE THAT UNEXPECTED FLOOD OF CHARTERS WOULD NOT OVERWHELM LIMITED TOURIST FACILITIES.

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2. AFTER REVIEW OF PERU PROPOSAL, US DEL RESPONDED AS FOLLOWS:

A. A PRIORI REVIEW OF PROPOSED SCHEDULED OPERATIONS WAS UNACCEPTABLE. US URGES AGAIN ITS WASHINGTON PROPOSAL, WHICH PERU DEL DESCRIBED AS RADICAL AND UNACCEPTABLE. LEON DE VIVERO SUGGESTED OBLIQUELY THAT PERU MIGHT WAIVE A PRIORI CONTROLS FOR US-PERU FLIGHTS (AND INTERMEDIATES) FOR A PRIORI CONTROLS FOR BRANIFF OPERATIONS SOUTH OF LIMA.

B. ON FARES, US PREFERRED LOW-FARES HORTATORY PROVISION BUT WOULD CONSIDER AS A COMPROMISE A COUNTRY-OF-ORIGIN PROCEDURAL REGIME WITH NO AGREED SUBSTANTIVE STANDARD IE COUNTRY OF ORIGIN WOULD APPLY WHATEVER STANDARD IT CHOSE.

C. PERUVIAN WET LEASE PROVISION WAS TOO BRAOD, FOR US LAW AND POLICIES WOULD NECESSITATE THAT (1) ARRANGEMENT BE TRANSITIONAL IN NATURE AND (2) LESSOR AIRLINE HAVE OR OBTAIN NECESSARY OPERATING AUTHORITY.

D. ON ROUTES, US WOULD ACCEPT PERU REQUEST FOR OPEN INTERMEDIATE POINTS, BEYOND RIGHTS TO CANADA, AND ADDITION OF NYC AND

SAN FRANCISCO POINTS, PROVIDED PERU MADE CONCESSIONS ON ISSUE OF A PRIORI CONTROLS AND US BEYOND RIGHTS TO ALL SOUTH AMERICAN POINTS WERE ACCEPTED. BEYOND RIGHTS FOR PERU TO ASIA AND EUROPE WERE NOT ACCEPTABLE.

E. ON CHARTERS, US DEL SAID THAT DIFFERENCES BETWEEN POSITIONS WAS NARROWING, AND US WOULD PROPOSE NEW LANGUAGE IN EFFORT TO CLOSE GAP.

3. ON MORNING OF JULY 4, US DEL MADE FOLLOWING COMPROMISE PROPOSAL ON ISSUE OF CONTROL OF SCHEDULED OPERATIONS. FOR OPERATIONS BETWEEN US AND PERU (INCLUDING INTERMEDIATES) BERMUDA I REGIME PREVIOUSLY PROPOSED BY US WOULD GOVERN. FOR OPERATIONS SOUTH OF LIMA, US PROPOSAL WOULD BE MODIFIED TO LIMITED OFFICIAL USE

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ALLOW A PRIOR PERUVIAN REVIEW, BUT REDUCTIONS IN FREQUENCIES WOULD BE ALLOWED ONLY DOWN TO AGREED FLOOR. AS IN PREVIOUS US PROPOSAL, AGREED FLOOR WOULD INCREASE ANNUALLY, AND AFTER FIVE-YEAR PERIOD A STANDARD BERMUDA I AGREEMENT WOULD GOVERN. WE AGREED TO PROVIDE PAPER SETTING OUT PROPOSAL, AND PERUVIAN DEL IS TO RESPOND JULY 5. INITIAL REACTION OF PERUVIANS TO US PROPOSAL AS IT WAS PRESENTED ON JULY 4 WAS NOT ENCOURAGING. LEON DE VIVERO CONTINUED TO ARGUE LEGALISMS OF PRIOR CONTROL AND PERUVIAN DESIRE FOR MORE EQUITY ON ISSUE OF BEYOND RIGHTS. US REITERATED THAT IT WAS NOT PREPARED TO ACCEPT ANY REDUCTION OF US BEYOND RIGHTS AND EMPHASIZED THAT US PROPOSAL WOULD EXPAND SUBSTANTIALLY RIGHTS OF PERUVIAN AIRLINES.

4. US DEL HAS LEARNED THAT PROPOSED BRANIFF OPERATION FROM DALLAS TO LIMA PREVIOUSLY SCHEDULED TO BEGIN JULY 15 IS NOW SCHEDULED FOR AUGUST 15. THIS MEANS THAT IT IS LESS CRITICAL TO SECURE AGREEMENT WITH PERUVIANS THIS WEEK, ASSUMING A 30-DAY EXTENSION OF 1975 AGREEMENT CAN BE OBTAINED. SOME COMMENTS OF PERU DEL SUGGEST THAT THEY DO NOT VIEW AGREEMENT THIS WEEK AS ESSENTIAL. IT MIGHT THEREFORE BE DESIRABLE, DEPENDING ON EVENTS JULY 5 AND 6, TO SCHEDULE A THIRD ROUND OF NEGOTIATIONS FOR LATE IN JULY.

5. US DEL WILL DISCUSS WITH AMBASSADOR SHLAUDEMANN POSSIBILITY OF HIS INTERVENTION AT MINISTER LEVEL TO SECURE MORE FLEXIBILITY IN PERU POSITION. IMPACT OF SUCH INTERVENTION COULD TAKE SOME TIME JELL. IN ANY EVENT, US DEL PLANS TO HOLD TO PLAN TO RETURN TO WASHINGTON EARLY MORNING OF JULY 7 FLIGHT TO DULLES.
SHLAUDEMANN

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 jan 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: CIVIL AVIATION, NEGOTIATIONS, AVIATION AGREEMENTS
Control Number: n/a
Copy: SINGLE
Draft Date: 04 jul 1978
Decaption Date: 01 jan 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 20 Mar 2014
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1978LIMA05879
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Expiration:
Film Number: D780275-0445
Format: TEL
From: LIMA
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1978/newtext/t19780797/aaaadeis.tel
Line Count: 166
Litigation Code IDs:
Litigation Codes:
Litigation History:
Locator: TEXT ON-LINE, ON MICROFILM
Message ID: 74be7c7b-c288-dd11-92da-001cc4696bcc
Office: ACTION EB
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 4
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: n/a
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 05 may 2005
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: N/A
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 2122560
Secure: OPEN
Status: NATIVE
Subject: CIVAIR - US-GOP TALKS - REPORT 2
TAGS: EAIR, US, PE
To: STATE
Type: TE
vdkgvwkey: odbc://SAS/SAS.dbo.SAS_Docs/74be7c7b-c288-dd11-92da-001cc4696bcc
Review Markings:
Sheryl P. Walter
Declassified/Released
US Department of State
EO Systematic Review
20 Mar 2014
Markings: Sheryl P. Walter Declassified/Released US Department of State EO Systematic Review 20 Mar 2014